

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING MINUTES**

DRAFT

DATE: November 17-18, 2010

LOCATION: Department of General Services
Elihu Harris State Building
1515 Clay Street,
Oakland, CA 94612

PRESENT: Jeannine Graves, RN, President
Judy L. Corless, BSN, RN
Erin Niemela (11/18 only)
Nancy Beecham, RN-BC (11/18 only)
Dian Harrison, MSW
Catherine M. Toderio, PhD, RN
Kathrine M. Ware, RN, MSN, ANP-C (9/23 Closed Session only)

NOT PRESENT: Richard L. Rice

ALSO PRESENT: Louise Bailey, M.Ed., RN, Interim Executive Officer
Heidi Goodman, Assistant Executive Officer
Don Chang, DCA Legal Counsel
Stacie Berumen, Enforcement Division Chief
Christina Sprigg, Administration Manager
Carol Stanford, Diversion Program Manager
Kathy Hodge, Enforcement Program Manager
Beth Scott, Probation Program Manager
Bobbie Pierce, Lead, Licensing Program
Geri Nibbs, NEC
Janette Wackerly, NEC
Miyo Minato, NEC
Kelly McHan, NEC
Leslie Moody, NEC
Shelley Ward, NEC
Badrieh Caraway, NEC
Kay Weinkam, NEC
Katie Daugherty, NEC
Dawn, Kammerer, Recorder
Julie Campbell-Warnock, Research Program Specialist
Michel Cohn, Administrative Law Judge
Aspasia Papavassiliou, Deputy Attorney General
Diann Sokoloff, Deputy Attorney General
Shana Bagley, Deputy Attorney General

Timothy McDonough, Deputy Attorney General
Susanna Gonzalez, Deputy Attorney General
Alfredo Tarraza, Senior Assistant Attorney General

Wednesday, November 17, 2010

CALL TO ORDER

J. Graves, Board President, called the meeting to order at 9:07 am and had the Board Members introduce themselves.

2.0 Public Comment for Items Not on the Agenda

Genevieve Clavreul, RN provided a comment.

3.0 Review and Approve Minutes:

Ø September 23, 2010, Board Meeting

MSC: Corless/Harrison that the Board approves minutes from September 23, 2010. 5/0/0

4.0 Report on Board Members' Activities

Jeannine Graves attended the BRN Annual Meeting with Deans and Directors as part of fall 2010 COADN/CACN Deans and Directors Conference.

5.0 Board and Department Activities

5.1 Interim Executive Officer Report

Louise Bailey presented this report

Board's Budget Update

Workforce Cap – In January 2010, due to the weak performance of the California economy, the Governor's office directed departments to take immediate steps beginning March 1, 2010, to cap the statewide workforce 5% lower than presently constituted in order to achieve an additional 5% salary savings in fiscal year 2010/11. The reductions could be achieved through abolishing vacancies, attrition, and layoffs. At that time the Board was targeted to achieve an additional savings of \$357,300 and the savings was accomplished due to vacancies.

On October 26, 2010, the Department of Finance issued a second Budget Letter regarding the additional 5% salary savings cap and due to the additional 37 enforcement positions that were added in FY 2010/11 the Board is now required to save \$417,690. These savings are being accomplished by keeping five (5) enforcement positions vacant and include benefits for the positions and re-classing four (4) special investigator positions including benefits to staff services analyst positions and re-classing seven (7) special investigator positions including benefits to office technician positions. The determination to use the

enforcement positions was difficult; however, the alternative to achieve the required savings would have been to layoff existing staff or not filling critical positions that are currently vacant or will become vacant.

Department of Consumer Affairs (DCA) Updates

Board Member Orientation – In accordance with Business and Professions Code Section 453, Board Members are required to attend DCA's Board Member Orientation within one year of their appointment. The next Board Member Orientation is set for Wednesday, December 1, 2010, at DCA Headquarters in Sacramento from 9:00 am to 4:30 pm. Please notify the Administration Unit if you would like to attend.

Social Media – At a recent Executive Leadership meeting, the Department provided an overview of Facebook, Twitter and UTube and suggested that all Boards and Bureaus begin to develop the internal mechanism to begin to use this media. These three sites can be viewed on the Department's Web site at www.dca.ca.gov. The BRN does not currently have the staff resources to initiate use of this media; however, the Board's Web site is available 24/7 and provides information as well as e-mail access to the various units in the Board.

Hiring Freeze

On August 30, 2010, the Governor's Office directed all state agencies to cease all new hires that included filling vacancies, promotions, hiring temporary help, and board appointments. At that time, the Budget for FY 2010/11 had not been signed; however, in anticipation of having a signed budget that would have allowed hiring to resume, the freeze was implemented. DCA worked with all Boards and Bureaus to implement the ability to fill vacancies with internal lateral transfers from one Board or Bureau to another, providing that both executive officers were in agreement with the transfers. The Board has posted several positions in light of this method; however, no positions using this method have been filled by this Board.

Furlough Friday Update

The last furlough Friday was October 22, 2010, and all state offices have resumed the Monday through Friday work week; however, due to the continuing budget shortfall, staff's salary is reduced by roughly 5% and staff is contributing an additional 3% to retirement. In turn for the 5% pay reduction, staff is earning one personal leave day each month, which is an 8 hour day and this time must be used within a certain timeframe as there is no monetary value. The personal leave program runs from November 2010 through October 2011.

National Council of State Boards of Nursing (NCSBN) in Partnership with CBS

At this year's Delegate Assembly, Kathy Apple, CEO announced they would be initiating a new marketing campaign with CBS that introduces consumers to the work of all the boards of nursing nation wide and the position they fill as the regulatory body that investigates whenever a nurse's behavior violates existing laws or regulations that govern the nurse's practice. The campaign includes: distribution of brochures and flyers; the use of social media; and a toolkit of sample public service announcements and news releases that individual boards can customize for use in their local market.

NCSBN partnership with CBS centers on:

- Promoting NCSBN boards of nursing as the entities charged with protecting the public health and welfare as it relates to nursing practice;
- Presenting the process people should take to gather advice/references regarding nurses; and
- Educating the viewer on how to file a complaint in their state.

NCSBN, along with CBS, produced a 30-second television spot that began a six week run on November 8, 2010, in New York, Los Angeles, Chicago, Philadelphia, Dallas-Fort Worth, Miami-Fort Lauderdale, Atlanta, Boston, Phoenix and Seattle on CBS owned and affiliated stations. The following are the shows that will air this spot:

- “The Early Show;”
- CBS 2 News;
- “Young & Restless;”
- “Dr. Phil;”
- CBS Local Early News;
- “Entertainment Tonight;” and
- CBS Local Late News.

Additionally, the commercial can be viewed on YouTube, MSN Video, Google Video and can be seen on the NCSBN website, <https://www.ncsbn.org/2055.htm>. This Web site provides more detailed information and resources, as well as direct links to individual Member Board websites.

Public Record Request

The Board continues to comply with public record requests and responds within the required timeframes that are set in Government Code Section 6250. For the period of September 3, 2010 through November 9, 2010, the Board has received and processed 45 public record requests.

Board Member Correspondence

For the period of September 9, 2010 through November 5, 2010, the Board received one letter addressed to a Board Member. The letter was related to a licensing matter.

Personnel

The following personnel changes have transpired since the last Board Meeting:

Separations	Classification	Board Program
Alicia Newcomb	Office Technician	Probation

Maria Bedroni began her state career in 1977 at Department of Education as a Nursing Consultant II. In March 1989, she joined the Board of Registered Nursing as a Nursing Education Consultant in the Los Angeles office, and in January 1993, she was promoted to Supervising Nursing Education Consultant. In 1998, she earned her EdD from the University of Pepperdine. For the many years she has been with the Board, Maria has

specialized in the development and continuation of the nursing programs. Maria will retire on December 29, 2010. Our congratulations to Maria.

Heidi Goodman began her 30 year state career as a seasonal clerk with the Board of Equalization. In 1981, she joined the Department of Consumer Affairs working in various offices such as the Bureau of Collection and Investigative Services, the DCA Budget Office, and the Board of Professional Engineers and Land Surveyors prior to joining the Board of Registered Nursing in 1989 as an Administrative Analyst. In 1994, she received the Governor's Safety Award for creating an ergonomic work environment at the Board. In 1995, Heidi was promoted to the Licensee and Administrative Services Program Manager overseeing such projects as the RN plastic card license, improved telephone systems, office moves, and LAN implementation. Additionally, she received the department's Sustained Superior Performance Award for her diligent initiative and creativity, and for numerous accomplishments including team leader of a state-wide contracts improvement project, her role as health and safety coordinator and her initiative in disaster recovery planning. In 2006, Heidi was promoted to Assistant Executive Officer. On November 27th, Heidi will celebrate 21 years of service at the Board and she will retire on December 30, 2010. We congratulate Heidi on her retirement!

5.2 DCA Directors Report

Kimberly Kirchmeyer presented the DCA Directors Report on behalf of Brian Stiger, Director

Hiring Freeze

- As previously stated, the exception process from the hiring freeze is very stringent and only the most critical requests are being approved. To date, the Department has only had five exemption requests approved (CSLB, BPELS, BPPE, BBS, and CSAC).
- In addition to the freeze on hiring, there is also a freeze on overtime. However, because the exemption request for the CPEI positions has not been approved, the Department is looking to see if an exemption request for overtime for the current staff would assist the Boards in their enforcement processes.

Consumer Protection Enforcement Initiative

- The Department continues to encourage this Board to move forward with regulations to allow the executive officers the ability to expedite the Board's investigation and prosecution processes, as identified in the drafting of Senate Bill 1111. The Department hopes you will move forward with the regulatory process for these proposals as several will assist the Board.
- We have completed gathering data for the Performance Measurements. These measures address cycle time, volume of complaints, cost, customer service, and probation monitoring. These will be posted on the DCA's Web sites by the end of November. These performance measurements provide for transparency to the public.

BREEZE

- The BreEZe project is moving forward and is on target for completion. Debbie Balaam is willing to provide a presentation on this project for your Board. We are finalizing the working sessions with the two prequalified vendors and the subject matter experts

at the Boards. We intend to release the final Request for Proposal with the finalized requirements by December and have a contract with a vendor in place by July 2011.

- In addition to the Forms Revision Workgroup and Data Conversion Workgroup I mentioned at the last meeting, we have also identified a need for a Reports Workgroup.

SB1441

- The Department continues to request that the Board move forward with the implementation of the SB 1441 Uniform Standards. Moving forward with regulations or policy changes as necessary.

PM1: Volume

- Number of complaints received

PM2: Intake Cycle Time

- Average number of days to complete complaint intake

PM3: Cycle Time of Closed Cases Not Resulting in Formal Discipline

- Average number of days to complete the intake and investigation steps of the enforcement process, for closed cases not resulting in formal discipline

PM4: Cycle time of Closed Cases Resulting in Formal Discipline

- Average number of days to complete the enforcement process (intake, investigation, and formal discipline steps) for those cases closed at the discipline stage

PM5: Intake & Investigation Efficiency

- Average cost of Intake and Investigation of complaints

PM6: Customer Satisfaction

- Consumer satisfaction with the service received during the enforcement process

PM7: Violation Cycle Time (Probation Monitoring)

- Average number of days from the date a probation monitor is assigned to a probationer to the date the monitor makes first contact

PM8: Initial Contact Cycle Time (Probation Monitoring)

- Average number of days from the time a violation is reported to a program, to the time the assigned probation monitor responds.

License Renewal Survey

- As previously stated, the recent enactment of the Patient Protection and Affordable Care Act by the Federal Government will impact all healing arts boards. In discussions with other agencies regarding the healthcare reform act, it has been brought to the Department's attention that there is a need to have more information on the healthcare workforce in the State of California. As you may remember, the Office of Statewide Health Planning and Development (OSHPD) was directed to establish the California Healthcare Workforce Clearinghouse. The Clearinghouse was to serve as the central source for collection, analysis, and distribution of information on the healthcare workforce employment and educational trends for the State. The information that is

gathered by OSHPD will also assist in meeting the needs for the implementation of the federal healthcare reform act.

Therefore, it is the Department's hope that much of the needed information can be obtained from licensees through the healing arts Boards. OSHPD has begun to work with the Boards and the Department to determine what information is needed and the most appropriate manner to obtain that information. One suggestion would be to send out a survey with a licensee's renewal. A copy of a survey used by the Medical Board is under Agenda Item 6.3. Although this survey would need adjusted to the nursing profession, it could be used to gather this information. The Department is meeting with OSHPD to determine the next steps and will be in contact with the Boards to develop a method to obtain this information. Cindy Kanemoto, our Chief of the Licensing for Job Creation Unit, will be leading this project and working with OSHPD and the Boards.

6.0 Report of the Administrative Committee

Jeannine Graves, RN, Chairperson

6.1 Accreditation of Prelicensure Nursing Programs

M. Minato presented this report

During the regulatory process for the recently approved education regulations, the concept of requiring accreditation of all prelicensure nursing programs was raised. Several commentators submitted public comments on the proposed regulations recommending that the programs be accredited. Specifically, two organizations (American Nurses Association-California and California Nurses Association) and two individuals (Baker and O'Rourke) recommended that the Board require institutions of higher education be accredited by a regional or national accrediting organization such as Western Association of Schools and Colleges. The rationale for the proposed requirement included: 1) accreditation is in the public interest; 2) is a requirement for other types of healthcare professionals' education; 3) assures quality of the institution; 4) provides consistent standards; 5) increases potential for transferability of units; 6) ensures that the institution provides an environment that supports broad education and intellectual stimulation; and 7) facilitates students' access to federal financial aid. The Board voted to accept the comments and to promulgate a separate regulatory proposal requiring that institutions of higher education be accredited.

The following people provided a comment:

Kelly Green, RN

Genevieve Clavreaul, RN

MSC: Harrison/Corless to refer to the Education/Licensing Committee the issue of whether Board approval of Prelicensure Nursing Programs should be required to be accredited by a national or regional accrediting body. 5/0/0

6.2 Review of Board's Continuing Education Program

C. Sprigg presented this report

Continuing Education Program:

The Board of Registered Nursing's Continuing Education Program was established on July 1, 1978, and requirements are found in Business and Professions Code sections 2811.5 – 2811.6 and the regulations governing this program are found in the California Code of Regulations sections 1450 to 1459.1. These statutes and regulations provide the bases for the Board to approve continuing education providers (CEP) and require a registered nurse, who wants to maintain an active license, to complete 30 hours of continuing education (CE) for license renewal. The CE courses must be taken through a Board approved CEP. It should be noted that the first two years immediately following initial licensure in California or other jurisdictions, licensees are exempt from the CE requirement.

Continuing Education Providers:

Any individual or group who has the resources to provide continuing education for registered nurses and agrees to adhere to the laws and regulations covering the program may apply for provider approval. A provider number can be issued to an individual, partnership, corporation, association, organization, organized health care system, educational institution, or governmental agency.

Upon approval of a CEP application a CEP number is issued. That CEP number expires two years from the date of initial issuance and is able to be renewed. A CEP provider number that has expired and has not been renewed for two years or more must submit a new application for review and approval and a new provider number is issued.

Each CEP is expected to offer courses relevant to the practice of registered nursing and must be related to the scientific knowledge and/or technical skills required for the practice of nursing or related to direct and/or indirect patient care. Learning experiences are expected to enhance the knowledge of the RN at a level above that required for licensure. The BRN approves continuing education providers, not individual courses.

CEP Application Process Overview:

All CE provider applicants must provide the following:

- Application form and fee of \$200
- Course Information and Instructor Information forms
- Federal Employer Identification Number, if applicant is a business or corporation, or their Social Security Number, if the applicant is an individual
- Sample of the advertising flyer/brochure
- Sample of the certificate of completion

All applications are reviewed for compliance in all required areas and the time frame for review and issuance of a CEP number is 4 to 6 weeks.

Continuing Education Licensee Audit Process Overview:

At the time of license renewal RNs are required to certify by signing a statement under penalty of perjury on their renewal application that they have completed the required 30 hours of Board approved CE. The BRN performs audits of the RN renewal application by requesting randomly selected RNs to provide certificates or gradeslips of their continuing education for the preceding renewal period. As discussed in the 2010 Sunset Report, the

number of audits of RNs for compliance with statutory and regulatory requirements has significantly declined since 2002 due to lack of staff in this unit. Currently, the CE unit has one Office Technician who reviews new CEP applications and responds to all Webmaster e-mails regarding Renewal questions.

MSC: Corless/Harrison to refer, to the Education Committee, a review of the Board's Continuing Education Program and any necessary recommendations to the program in order to maintain competent RNs and thereby enhancing public protection, including but not limited to, audits of C.E. providers, licensees and regulations. 5/0/0

6.3 License Renewal Survey

K. Kirchmeyer presented this report

MSC: Todero/Corless to refer this survey to the staff to research the feasibility of a license renewal survey and make a report of their findings and recommendations to the Board at the next Board Meeting. 5/0/0

6.4 Sunset Report Update

J. Campbell-Warnock presented this report

The Board's Sunset Report was submitted to the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business, Profession and Consumer Protection (the Committees). Originally hearings were scheduled for November, however, since there will be membership changes with the Committees and a newly elected Governor, the hearings have been moved to the beginning of the new legislative session some time in mid-February, 2011. This change will still give ample time for any legislative changes and sunset extensions in the 2011 legislative year. Meanwhile, Committee staff will be reviewing the Sunset Report, and will follow up with any questions as necessary.

Board staff is currently drafting an Addendum to the Sunset Report which is addressing in specific detail the staffing in various units at the Board in light of the many changes that have transpired over the past 18 to 24 months. The focus of the Addendum Report will be the assessment of workload and staffing in order to meet the Boards mission of public protection. A draft of this report will be available to Board Members for review and comments before a final is completed and submitted to the Committee.

6.5 Update and Status of *California Society of Anesthesiologist and California Medical Association v. Arnold Schwarzenegger*

J. Bunshoft, Deputy Attorney General, presented this report

On October 8, 2010, the California Superior Court in San Francisco granted summary judgment in favor of both Governor Arnold Schwarzenegger and the California Association of Nurse Anesthetists (CANA), affirming California's opt-out of the federal physician supervision requirement for nurse anesthetists.

6.6 Results of New Grad Survey

D. Jones, RN, MS, President and Executive Director of the California Institute for Nursing and Health presented this report

The Board of Registered Nursing, California Institute for Nursing and Health Care, University California Los Angeles and the Community College Chancellor's Office collaborated together to develop and conduct an online survey of recent RN graduates. Questions were related to the new graduates experience with seeking RN employment. The purpose of the survey was to obtain information on the pervasiveness of the problem new graduates are having finding employment in the current economy. The results of the survey were presented to the Board.

The following people provided a comment:

Diane McQue

Genevieve Clavreaul, RN

6.7 Update for Implementation of AB 2699

R. Woonacott, Deputy Director of the Division of Legislative & Policy Review, Department of Consumer Affairs presented this report

The Department's plan to implement Senate Bill 2699 that was chaptered on September 23, 2010 was presented to the Board. This legislation created a state license exemption for out-of-state licensed health care practitioners who provide free services on a short term, voluntary basis, in association with a sponsoring entity to California health care consumers.

The following people provided a comment:

Tricia Hunter, ANA-C

Kelly Green, CNA

6.8 Propose Legislation to Assess Fees for Approval of New Pre-licensure Nursing Programs

M. Minato presented this report

Over the last decade, there has been a dramatic increase in the number of proposed new pre-licensure nursing programs, from one in 1998 to twenty-one in 2008. A number of these program applicants lacked professional nursing education and practice expertise, and the registered nursing program was the first academic degree program that the school would be offering. Programs that lack such expertise and degree experience require more extensive assistance from Board staff, and in spite of such assistance, may not be able to submit a feasibility study or self-study that conforms to Board requirements. The recently revised document, "Instructions for Institutions Seeking Approval of New Pre-licensure Registered Nursing Program" was incorporated by reference in the education regulations effective October 21, 2010. The document, which provides more specific and detailed information about the approval requirements and process, should facilitate the process; however, it may not resolve the problems for programs that lack nursing expertise and

academic degree granting experience. These programs may continue to require extensive assistance from Board staff.

Currently, the Board does not charge a fee for the costs associated with review and approval of proposed pre-licensure nursing programs; the costs are absorbed within the Board's existing budget. In view of the increased number of proposed new programs and the expenditure of Board resources required in the review and approval process, assessing a fee to help offset the costs may be appropriate. In order to charge a fee, a statutory change is necessary.

MSC: Todero/Ware to authorize the Executive Officer to seek an author to authorize the Board of Registered Nursing, to access fees for new Pre-licensure Programs. 5/0/0

6.9 Board and Committee Meeting Dates for 2011

L. Bailey presented this report

The following dates were confirmed for calendar year 2011:

Committee Meetings:

January 5-6, 2011*

March 10, 2011

May 18, 2011

August 10, 2011

October 12, 2011

Board Meetings:

February 2-3, 2011

April 13-14, 2011

June 22-23, 2011

September 14-15, 2011

November 16-17, 2011

* January 6, 2011 is a Board Meeting – Discipline Only

7.0 Report of the Legislative Committee

Dian Harrison, MSW, Chairperson

7.1 Positions on Bills of Interest to the Board and any other Bills of Interest to the Board.

L. Bailey presented this report

AB 867 Nava: California State University: Doctor of Nursing degree pilot program
Support – Chaptered 416

AB 1937 Fletcher: Pupil Health: immunizations
Support – Chaptered 203

AB 2302 Fong: Postsecondary Education: student transfer

Watch – Chaptered 427

AB 2344 Nielson: Nursing: approved schools
Support – Chaptered 208

AB 2385 Perez: Pilot Program for Accelerated Nursing and Allied Health Care
Profession Education at the California Community Colleges
Watch – Chaptered 679

AB 2500 Hagman: Professions and Vocations: licenses: military services
Support – Chaptered 389

AB 2699 Bass: Healing Arts: licensure exemption
Oppose unless amended – Chaptered 270

AB 2783 Committee on Veterans Affairs: Professions and Vocations: military
personnel
Watch – Chaptered 214

SB 294 Negrete McLeod: Department of Consumer Affairs: regulatory boards
Oppose – Chaptered 695

SB 1119 Wright: Health Care Staffing
Oppose unless amended – Vetoed

SB 1172 Negrete McLeod: Regulatory Boards: diversion programs
Watch – Chaptered 517

SB 1440 Padilla: California Community Colleges: student transfers
Support – Chaptered 1440

8.0 Report of the Diversion/ Discipline Committee

Richard Rice, Chairperson

8.1 Attorney General's Office Goals

Alfredo Tarraza, Senior Assistant Attorney General presented a report during the board meeting morning session and the board wants to consider the information provided in the report.

The Board of Registered Nursing (BRN) senior level enforcement management worked closely with the Attorney General's Office (AGO) to modify the BRN's Case Movement Guidelines in July 2009.

The document was presented to the Board at a meeting in August 2009. Senior BRN staff along with senior level DCA legal counsel conducted a conference call on October 27, 2010, to discuss the BRN Case Movement guidelines with senior AGO staff. Discussions

were held regarding possible modifications and it was agreed the AGO would prepare draft recommendations for the Board's consideration.

8.2 Nursys Discipline Data Comparison (Scrub) Update

S. Berumen presented this report

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records.

Currently, 1,805 records have been reviewed on the active license list. Determination was made whether the cases warranted a request for the other state's discipline documents. This review resulted in 1,024 requests for out-of-state documents. The documents will be evaluated and a decision made as to the appropriate action needed.

Review of the inactive license spreadsheet is in progress and will continue until complete. Holds have been placed on 1,915 inactive records to alert staff when a nurse on the list attempts to activate their license. This alert will allow staff to immediately request and review the records to determine if out-of-state discipline documents are needed for possible action on the license.

The status of the documents reviewed:

Referred to the Attorney General	204
Pleadings Received	149
Notices of Defense Received	73
Referred to Cite and Fine	21
Closed Without Action (Action taken by CA (prior to 2000) but not reported to Nursys or information approved at time of licensure)	229
Settlement or Decision Pending	64

UPDATE:

The National Council of State Boards of Nursing (NCSBN) announced at its Annual Meeting on or about August 12, 2010, a new process in development for non-licensure participating boards to participate in sharing discipline information. The project is estimated to be completed by the end of Fall 2010. Additional information is forthcoming and will be provided once received.

8.3 Internet Disclosure Policy

S. Berumen presented this report

The Board of Registered Nursing (BRN) began posting discipline information on its web site in 2006. This was done in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

The BRN provides this information to better inform and protect California's health care consumers.

Business and Professions Code Section 27 requires a number of boards and bureaus under the direction of the Department of Consumer Affairs, to post information regarding licensees on their web sites. The BRN is not included in this code section.

BRN provides information on the internet to indicate any disciplinary actions and their status through a series of codes from our legacy computer system. The discipline documents are added to support and explain actions taken.

As of November 3, 2010, there are approximately 5,065 discipline documents listed on our website. These documents include denial letters, statements of issue, accusations, petitions to revoke probation, interim suspension orders, PC 23 criminal court practice suspension orders, and final decisions.

Current and past Board members have expressed concern and believe it is vitally important the public is aware of nurses who may pose a danger to the public.

In the last year, BRN staff has received requests to remove discipline documents from our website for a variety of reasons such as: it has been many years since the action was taken, the conviction included in the disciplinary action has been dismissed, expunged, or sealed, it hampers a licensee's ability to find employment, or the licensee is harassed by co-workers.

The BRN has been unable to provide all discipline documents on the website due to limited staff resources and ability to access records quickly. Discipline documents continue to be requested on a routine basis by members of the public if they are not available on the website. When staff requests a file to obtain the discipline documents they are added to the website at the same time they are sent out to the requestor.

DCA and BRN past practice is to retain the documents on the website indefinitely but at least until the BRN no longer has jurisdiction over a licensee.

MSC: Graves/Corless that the Internet Disclosure Policy be deferred to the Diversion/Discipline Committee for determination of disclosure parameters. 5/0/0

8.4 Enforcement Program Update and Statistics

S. Berumen presented this report

Staff

In addition to a hiring freeze, with an unspecified ending date, and the requirement earlier this year to identify 5% salary savings before the budget is signed, the Administration has denied our CPEI hiring exemption request (unless they are lateral transfers from existing DCA staff – thus eliminating the possibility of promoting BRN staff). The BRN was recently asked to reduce staff expenditures (by personnel years – employees) an additional 5%, which equals \$417,000. Six positions throughout the BRN have been held open since at least July 1, 2010,

to achieve the original 5% savings requirement. If these positions are eliminated, it does not cover even half of the salary savings. To avoid a layoff situation, some of the CPEI positions have been targeted to cover this requirement.

Persistent inhibitions of our ability to hire the resources we require to create and run an investigation unit and the growing backlog of investigations in our office (now almost 700), it is apparent the Board's vision of an investigation unit must change to meet the current political and economic climate. Therefore, Enforcement will begin to send back our cases to DOI and reduce the CPEI positions. We plan to reclassify three special investigator positions as Nursing Education Consultants and create a new Case Management unit comprised solely of eight NEC's and one Supervising NEC. The NEC's will review case documents, create investigation case plans for DOI, review completed investigations, and justify case closure, transmittal to the AG, citation/fine, or any other case dispositions.

We have advertised for the five limited term CPEI positions and hope we can hire with internal DCA transfer candidates.

We are very concerned that our four existing limited term staff will either be forced to leave state service or return to their previous positions since two terms expire 12/31/10 and two expire 2/28/11. We will do what we can given the numerous hiring limitations to keep these staff for as long as possible; however, with no guarantees, those individuals may seek employment elsewhere.

Licensing's temporary help has not been enough to cover the loss of our half-time limited term OT and this desk is quite backed up. In addition, our unit has been hit hard with jury duty summons, illnesses, and the loss of family members over the past few months. Combined with furloughs, we have lost a considerable amount of work hours and, as such, have accumulated a back log in processing and investigating desk complaints, and transmitting cases to the AG's office. Agency has asked DCA to submit how many hours it would take for our staff to work overtime to clear backlogs, however, enforcement staff is tired and becoming burned out at trying to keep up the pace of work necessary to improve the case turnaround times with no additional staff. As such, few are open to working overtime.

Program

On October 27, 2010, Louise Bailey, Paul Riches, Stacie Berumen, Kathy Hodge, Beth Scott, Don Chang, and Doreathea Johnson conducted a conference call with Alfredo Terrazas, Senior Assistant Attorney General, our liaison DAGs, Leslie Brast and Linda Sun, Los Angeles SDAG's, Gloria Barrios and Marc Greenbaum from the AG's office to discuss some key issues between our agencies:

- Since July 27, 2010, preparation of default decisions moved from BRN back to the AG's office due to a Superior Court Judge ruling. In addition to delays, this has also caused an increase in processing time by BRN staff. After a cooperative discussion with the AG's office, it was agreed that we will begin a pilot program with DCA legal staff to oversee the preparation and review of default decisions and evidence packets prepared by BRN

staff for all accusations filed on or after December 1, 2010 in the Oakland and San Francisco AG offices. At least the first fifteen will be sent to our DAG liaison, Leslie Brast, for review and approval prior to forwarding to the Board for vote. The pilot will be revisited at the end of the first quarter of 2011 to determine whether or not the program can include all other AG offices. DCA legal contacts are Don Chang, BRN staff counsel, and Doreathea Johnson, Deputy Director of Legal Affairs.

- The AG's office modified BRN case movement guidelines in July 2009 to include specific time frames for case completion. As a result, BRN staff have been instructed to follow up with the AG's office to ensure case milestones are met. The AG's office has been inundated with cases beyond what was expected when the original guidelines were proposed. Therefore, case assignments have been delayed which, in turn, delayed the preparation of the initial pleadings and has resulted in follow up calls/e-mails from BRN case analysts. The AG's office remains committed to the guidelines as they want cases completed as quickly as possible. We continue to work with the AG's office to determine how we can ensure adherence to the guidelines without constant follow up and pressure on both BRN and AG staff. Options have been presented by Mr. Terrazas to the Board for consideration.
- We continue to experience delays when attempting to settle a case. Many of the delays are caused by unresponsive Respondents or their legal counsel. These delays are unacceptable as it ages our cases unnecessarily, but also allows unsafe practice to continue longer than necessary than if we were to place them on monitored probation or accept a surrender of license. After discussing our concerns, SDAG Marc Greenbaum from Los Angeles offered a creative proposal that may provide respondent's incentive to reach faster resolution to cases we are willing to settle. Once the proposal has been prepared and vetted it will be presented to the Board for review and discussion.
- Since January 1, 2010, there were 1,036 applicant cases with no rap sheet for convictions they disclosed to the BRN. At the request of Louise Bailey, Mr. Terrazas made contact with the Fingerprint Bureau Chief at DOJ. Upon initial consideration of this situation we were told, it is not uncommon for self-reported convictions to not match the DOJ report. Pursuant to PC 11105 K-P, since 1985, any arrest on a criminal history reported on Livescan that has no reported outcome must be redacted.
- DCA Legal has approved a letter that will be sent to approximately 7,200 nurses by the end of 2010 who answered 'Yes' to completing the fingerprint requirement and we do not have proof of submission or any results from the DOJ or FBI. The letter requires the licensee to submit proof of fingerprint submission to the DOJ and explains the repercussions for failing to comply as it will result in a referral to the AG's office for possible disciplinary action.
- On July 1, Enforcement staff began to track time spent on 10% of complaints in the investigative phase for performance measurement. The captured time is not completely accurate as the time is reported in tenths (0.1 minute). Anything not falling within that

range, i.e. .10, .20, etc., reverts back to zero. Our concerns have been communicated to the unit collecting the data.

BRN Investigations

BRN investigators have completed 92 investigation reports; however, our investigations continue to add up and are now at 678. We only have two retired annuitant investigators currently working our cases in Northern California. We have sent back 12 cases to DOI which were reviewed by the NECs for focused investigations. An additional 19 have or will be sent to DOI for focused investigations. DOI is prepared to begin taking cases as soon as we can review them and focus on areas of investigation.

Statistics

There are 462 pending DOI investigations and 678 pending BRN investigations.

From July 1, 2010 to November 1, 2010, enforcement served 233 accusations. Enforcement prepared nine (9) default decisions from July 1, 2010 to July 26, 2010, prior to the process returning to the AG's office on July 27, 2010.

Please review the old monthly enforcement report (attachment) which has additional breakdowns of information. The new report required to be submitted to the Deputy Director of Enforcement and Compliance is also attached for your review and comment. We can compile a hybrid report if the committee is interested.

8.5 Probation Program Update and Statistics

S. Berumen presented this report

Staff

The Probation Program currently has one vacancy for a probation monitor and has initiated recruitment efforts with the limitation of only being allowed to hire DCA lateral transfer candidates.

Program

The Probation Program staff continues to participate in designing a multi day course directed towards probation monitors. This course will be comprehensive training to provide actual tools and knowledge for probation monitors state wide. The training is scheduled to begin in February 2011. Additionally, the probation staff will provide training at the second Enforcement Academy in December.

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records. Updates will be provided at each DDC meeting.

The Probation Program will begin reviewing the Recommended Guidelines for Disciplinary Orders and Conditions of Probation. They were last revised in 2002 and are long overdue for cleanup and to incorporate recent legislative and regulatory changes.

The Probation Program began a pilot project with Phamatech Laboratories to determine if the Department wide contract for random drug screening would benefit the program. A limited number of probationers will test with this vendor and the staff will monitor all aspects of the program to ensure they meet BRN monitoring requirements.

In December, the Probation Program staff will conduct a probation monitoring workshop for the staff of the Attorney General's office in Oakland and San Francisco. This workshop is designed to share issues regarding monitoring probationers, settlings cases for probation and prosecuting petitions to revoke probation.

The Probation Program lost 384 hours of staff time from September 1, 2010 to October 31, 2010 due to state mandated furloughs.

Statistics

Below are the statistics for the Probation program from September 1, 2010 to October 28, 2010.

Probation Data	Numbers	% of Total
Male	115	24%
Female	348	75%
Chemical Dependency	262	56%
Practice Case	153	33%
Mental Health	4	<1%
Conviction	44	<1%
Advanced Certificates	43	<1%
Southern California	246	53%
Northern California	217	46%
Pending at the AG	74	15%
License Revoked	1	<1%
License Surrendered	15	<1%
Terminated	3	<1%
Completed	8	<1%
Total in-state probationers	463	

8.6 Diversion Program Update and Statistics

C. Stanford presented this report

On October 26, 2010, the Board was notified by the Department of Consumer Affairs (DCA) of a recent legal decision regarding the Board's Diversion Evaluation Committees (DECs). Per legal counsel, the meetings of the DECs must comply with the Bagley-Keene Open Meeting Act (Act). The rules from this Act that affect the DEC meetings the most, include the requirement for the meeting to be noticed ten (10) days prior to the date of the meeting, including posting on the Board's Web site and the necessity to have an agenda. It is anticipated that the majority of the DEC meeting will be conducted in closed session; however, the Board will need to begin the meeting in open session and allow for public

comment before convening in closed session and ensure that the meeting complies with the Act in all other aspects.

Since this will be a new process for the DEC members, DCA will hold two training sessions on the Act and its requirements and all DEC members were notified of this need to attend the training. The training sessions are November 15, 2010, in Los Angeles and November 16, 2010, in Sacramento. The Board has contacted the DEC members and a number of our DEC members were able to attend; however, those who were unable to attend, due to prior obligations, DCA will determine the need for another training date in the near future.

On December 1, 2010, the Diversion Program will conduct a Nurse Support Group Facilitator's Conference. This conference is intended to improve communication between the facilitators, Board staff and the contractor. Information will be provided to clarify the facilitators' roles and responsibilities as outlined in the Contract, SB1441, and recommended guidelines for probationers.

On December 2, 2010, the Diversion Program will conduct a DEC Orientation Meeting. This provides required training for new DEC members to familiarize them with their role and responsibilities related to their appointment and other State requirements. The meetings will be held in Sacramento and an update will be provided at the next meeting.

Contractor Update

Maximus has been meeting with the Department and the Boards to develop processes and forms to comply with the new contract and new laws governing the program. They are establishing auditing protocols to assist them in enhancing their efficiency and maintaining contract compliance.

The Department of Consumer Affairs has received a request for additional information from one of the senators at the request and suggestion of Center for Public Interest Law (CPIL) regarding the Department's Audit of the contractor, Maximus. The Department is in the process of responding to the request. The Board will be provided with a copy of the Department's response.

Virginia Matthews, Maximus Program Director, presented a brief report and overview regarding trends and developments.

Diversion Evaluation Committees (DEC)

There are currently 14 vacancies as follows: six Registered Nurses, six Physicians, and two Public members. Recruitment efforts continue. There are 5 applications presented for the Board's approval today.

Statistics

Attached is the Monthly Statistical Summary Report for August and September, 2010. As of September 30, 2010, there were 1,505 successful completions.

8.6.1 Committee Member Term Resignations

C. Stanford presented this report

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Diversion Evaluation Committees. Each Committee for the Diversion Program is composed of three registered nurses, a physician and a public member with expertise in chemical dependency and/or mental health.

RESIGNATIONS

The following Diversion Evaluation Committee members have resigned for personal reasons. Their efforts will be recognized and letters of appreciation mailed out.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Marilyn Dray	Nurse	North Coast	2

8.6.2 Diversion Evaluation Committee Members

C. Stanford presented this report

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is required to appoint persons to serve on Diversion Evaluation Committees. Each committee is composed of three registered nurses, a physician, and a public member with expertise in chemical dependency and/or mental health.

TRANSFER

The following Diversion Evaluation Committee members are requesting transfers.

<u>NAME</u>	<u>TITLE</u>	<u>From DEC</u>	<u>To DEC</u>
Jennifer Dibley	Nurse	4 Orange County	10 San Diego
Cindy Simpson	Public Member	6 Palm Springs	14 Santa Ana

APPOINTMENTS

Below are candidates who were interviewed and are recommended for appointment to a Diversion Evaluation Committee (DEC). Their applications and résumés are attached. If appointed, terms will expire June 30, 2014.

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO.</u>
David Aust	Nurse	Sacramento	1
Nancy Glover	Nurse	Bay Area	2
Tomma May	Public	Los Angeles	3
Mary Richards	Nurse	San Jose	7
Jo Chavez	Nurse	Oakland	13

MSC: Graves/Todero that the Board approve Diversion Evaluation Committee Member transfers.
5/0/0

MSC: Todero/Graves that the Board approve Diversion Evaluation Committee Member Appointments. 5/0/0

9.0 Report of the Education/Licensing Committee

Catherine Todero, PhD, RN, Chairperson

9.1 Ratify Minor Curriculum Revision

M. Minato presented this report

- Ø Azusa Pacific University, Nurse Practitioner Program
- Ø Azusa Pacific University, Entry Level Master's Degree Nursing Program and Baccalaureate Degree Nursing program
- Ø California State University, Dominguez Hills, Entry Level Master's Degree Nursing Program
- Ø California State University, Sacramento, Baccalaureate Degree Nursing Program
- Ø California State University, Stanislaus, Baccalaureate Degree Nursing Program
- Ø West Coast University, Inland Empire, Baccalaureate Degree Nursing Program
- Ø West Coast University, Los Angeles, Baccalaureate Degree Nursing Program
- Ø West Coast University, Orange County, Baccalaureate Degree Nursing Program
- Ø Chabot College, Associate Degree Nursing Program
- Ø Kaplan College, Associate Degree Nursing Program
- Ø Moorpark College, Associate Degree Nursing Program
- Ø Pierce College, Associate Degree Nursing Program
- Ø Sacramento City College, Associate Degree Nursing Program

Progress Report:

- Ø California State University, Dominguez Hills, Entry Level Master's Degree Nursing Program
- Ø Charles Drew University, Entry Level Master's Degree Nursing Program
- Ø West Coast University, Inland Empire, Baccalaureate Degree Nursing Program
- Ø Grossmont College, Associate Degree Nursing Program
- Ø Palomar College, Associate Degree Nursing Program
- Ø San Diego City College, Associate Degree Nursing Program
- Ø Unitek College, LVN to RN Associate Degree Nursing Program

MSC: Coreless/Ware that the Board ratify Minor Curriculum Revisions and Prograss Reports. 5/0/0

9.2 Major Curriculum Revision

M. Minato presented this report

- Ø College of the Canyons, Associate Degree Nursing Program

MSC: Graves/Corless that the Board ratify Major Curriculum Revisions. 5/0/0

9.3 Continue Approval of Pre-licensure Nursing Program

M. Minato presented this report

Ø National University, Baccalaureate Degree Nursing Program

MSC: Corless/Harrison that the Board defer approval of the National University, Baccalaureate Degree Nursing Program and obtain a report regarding the Los Angeles campus for the March 2011 Board Meeting. 5/0/0

Ø College of San Mateo, Associate Degree Nursing Program

MSC: Ware/Graves that the Board grant continuing approval of College of San Mateo Associate Degree Nursing Program. 5/0/0

Ø Long Beach City College, Associate Degree Nursing Program

MSC: Harrison/Corless that the Board grant continuing approval of Long Beach City College Associate Degree Nursing Program. 5/0/0

Ø Mt. San Jacinto College, Associate Degree Nursing Program

MSC: Corless/Ware that the Board grant continuing approval of Mt. San Jacinto College Associate Degree Nursing Program. 5/0/0

9.4 Licensing Program Overview and Statistics

B. Pierce presented this report

On October 6, 2010, Bobbi Pierce, Lead Licensing Analyst provided an overview to new nursing directors attending the California Organization of Associate Degree Nursing Program Directors meeting. The topics presented included: the Individual Candidate Roster and how to complete the required information; the need for the program to provide a worksheet that reflects completed pre-requisite course work that was completed at other colleges/universities and was used to satisfy the programs requirements; and the Board no longer accepts applications without a U.S. Social Security Number (SSN). This presentation was also given to existing directors later in the day and in both sessions there were a number of questions and answers that were provided to the participants.

Statistics:

The Department of Consumer Affairs, in conjunction with the Board, continues to provide statistical reports to the Governor's Office and the State and Consumer Services Agency on a monthly basis for the Licensing and Job Creation Report. This project has been on-going since January 2010 and the Board has been an active participant in meeting the goals of the program to contribute towards California's job growth through expeditious and efficient processing of professional pending examination and licensing applications.

The statistics for the last two fiscal years and the first four months of Fiscal Year 2010/11 are attached. You will note that there is a decrease in the number of applications for examination, repeaters, and endorsement during the last two fiscal years. It is believed that this is due to the

economic slowdown and the Board's no longer accepting applications that do not include a SSN.

9.5 NCLEX-RN Pass Rates Update

K. Daugherty presented this report

The Board of Registered Nursing receives quarterly reports from the National Council of State Boards of Nursing (NCSBN) about the NCLEX-RN test results by quarter and with an annual perspective. The following tables show this information for 12 months and by each quarter.

NCLEX RESULTS – FIRST TIME CANDIDATES

October 1, 2009 – September 30, 2010**/**

JURISDICTION	TOTAL TAKING TEST	PERCENT PASSED %
California	11,367	87.90
United States and Territories	140,604	87.56

CALIFORNIA NCLEX RESULTS – FIRST TIME CANDIDATES

By Quarters and October 1, 2009-September 30, 2010**/**

10/01/09- 12/31/09		1/01/10- 3/31/10		4/01/10- 6/30/10**		7/1/10- 9/30/10		10/01/09- 9/30/10	
# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass
988	84.72	3,840	89.79	2,114	89.92	4,425	86.01	11,367	87.90

*Includes (8), (9), (6) & (6) "re-entry" candidates.

** 2010 NCLEX-RN Test Plan and a higher passing standard (-0.16 logits) were implemented April 1, 2010.

The Nursing Education Consultants monitor the NCLEX results of their assigned programs. Current procedure provides that after each academic year (July 1 – June 30), if there is substandard performance (below 70% pass rate for first time candidates), the NEC requests the program director submit a report outlining the program's action plan to address this substandard performance. Should the substandard performance continue in the second academic year, an interim visit is scheduled and a written report is submitted to the Education/Licensing Committee. If there is no improvement in the next quarter, a full approval visit is scheduled within six months. A report is made to the Education /Licensing Committee following the full approval visit.

10.0 Report of the Nursing Practice Committee

Kathrine M. Ware, RN, MSN, ANP-C, Chairperson

10.1 A Report on the Institute of Medicine and Robert Wood Johnson Foundation Initiative on the Future of Nursing by Liana Orsolini-Hain, Ph.D., RN, CCRN, Committee Member

J. Wackerly presented this report

Dr. Liana M. Hain, Ph.D., is a committee member on the Robert Wood Johnson Foundation Initiative on the Future of Nursing. Dr. Hain is a full-time tenure track instructor at City College of San Francisco. She has more than 16 years of experience in associate's degree nursing education.

The following is an excerpt from the free summary, titled "The Future of Nursing: Leading Change, Advancing Health". The Committee's charge is to examine and produce recommendations related to the following issues, with the goal of identifying vital roles for nurses in designing and implementing a more effective and efficient health care system:

- Reconceptualizing the role of nurses within the context of the entire workforce, the shortage, societal issues, and current and future technology; and
- Expanding nursing faculty, increasing the capacity of nursing schools, and redesigning nursing education to assure that it can produce an adequate number of well prepared nurses able to meet current and future health care demands; and
- Examining innovative solutions related to health care delivery and health professional education focusing on nursing and delivery of nursing services; and
- Attracting and retaining well prepared nurses in multiple care settings, including acute, ambulatory, primary care, long term care, community and public health.

The link to the summary can be found at:

http://www.nap.edu/nap-cgi/report.cgi?record_id=12956&type=pdfxsum

10.2 Registered Nurse Advisories

J. Wackerly presented this report

Registered nurse advisories are available at www.rn.ca.gov. When using the BRN home page, use the cursor on left hand side of page, titled "Practice Information."

The liaison to the Practice Committee with assistance from board staff has been updating BRN advisories utilizing the California Nursing Practice Act with Regulations and Related Statutes, 2010 Edition and California Law found at www.leginfo.ca.gov as resources.

With Board approval, the following advisories will be posted to the BRN website:

- Abuse Reporting Requirements
- Background Checks for Student Clinical Placement
- California Nursing Practice Act
- Complaint Disclosure Policy
- Continuing Education for License Renewal
- Good Samaritan
- Interim Permittee
- Information About Medical Assistant
- License Information

- Nurse Practitioners & Nurse-Midwives - Supervision of Medical Assistants
- Residential Care for the Elderly Employee, RCFE, Training for Self-Administration of Medication
- Unlicensed Assistive Personnel
- Use of Title: Registered Nurse and Name Tags

The Nurse Practitioner advisory, titled “Nurse Practitioner & Nurse Midwives Supervision of Medical Assistant” now reflects the authority in Health and Safety Code, section 1204.

The advisory, titled “Background Checks for Student Clinical Placement” was updated by Shelly Ward, NEC, who is responsible for the Director’s Handbook and is used by BRN approved nursing education programs.

Enforcement Unit managers reviewed the Complaint Disclosure Policy and determined no revisions were needed. Staff will continue updating BRN advisories to bring the information current. The advisories will be brought before the Practice Committee and then to the Board for final approval.

The following people provided a comment
Genevieve Clavreaul, RN

MSC: Graves/Todero that the Board accept the registered nurse advisories as outlined for placement on BRN website. 5/0/0

11.0 Public Comment for Items Not on the Agenda

12.0 Closed Session

Disciplinary Matters

The Board convened in **closed session** pursuant to Government Code Section 11126(c) (3) to deliberate on disciplinary matters including stipulations and proposed decisions

Meeting adjourned at 1:56 pm. J. Graves, Board President, called the closed session meeting to order at 2:45 pm. The closed session adjourned at 4:10 pm

Thursday, November 18, 2010 – 9:00 am

J. Graves, Board President, called the meeting to order at 9:10 am and had the Board Members introduce themselves.

13.0 Public Comment for Items Not on the Agenda

No public comment made.

14.0 Disciplinary Matters

Reinstatements

Billy Goulette - Denied
Elissa J. La Barrie - Granted
Susan Neuhoff - Granted
Manuel Nunez - Granted
Ronald Taylor - Denied
Duke Trejos - Denied
Germaine Velasquez - Granted

Termination of Probation

Judy Wagayan - Granted

Meeting adjourned at 1:45 pm. J. Graves, Board President, called the closed session meeting to order at 1:55 pm. The closed session adjourned at 3:45 pm

Louise Bailey, M.Ed., RN
Executive Officer

Jeannine Graves, RN
Board President

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING MINUTES**

DATE: September 23-24, 2010

LOCATION: Hilton San Diego Mission Valley
901 Camino del Rio South
San Diego, CA 92108

PRESENT: Jeannine Graves, RN, President
Judy L. Corless, BSN, RN
Erin Niemela
Nancy Beecham, RN-BC
Dian Harrison, MSW
Richard L. Rice (9/23 arrived at 1:52 pm)

Kathrine M. Ware, RN, MSN, ANP-C (9/23 Closed Session only)

NOT PRESENT: Catherine M. Todero, PhD, RN

ALSO PRESENT: Louise Bailey, M.Ed., RN, Interim Executive Officer
Heidi Goodman, Assistant Executive Officer
Don Chang, DCA Legal Counsel
Stacie Berumen, Enforcement Division Chief
Christina Sprigg, Administration Manager
Carol Stanford, Diversion Program Manager
Kathy Hodge, Enforcement Program Manager
Bobbie Pierce, Lead, Licensing Program
Geri Nibbs, NEC
Janette Wackerly, NEC
Miyo Minato, NEC
Kelly McHan, NEC
Leslie Moody, NEC
Shelley Ward, NEC
Kay Weinkam, NEC
Katie Daugherty, NEC
Geri Nibbs, NEC
Badrieh Caraway, NEC
Kim Ott, Legal Analyst
Julie Campbell-Warnock, Research Program Specialist
Mary Agnes Matyszewski, Administrative Law Judge
Desiree Kellogg, Deputy Attorney General
Erin Sunseri, Deputy Attorney General

Thursday, September 23, 2010

CALL TO ORDER

J. Graves, Board President, called the meeting to order at 9:11 am and had the Board Members introduce themselves.

1.0 Public Comment for Items Not on the Agenda

Genevieve Clavreul, RN provided a comment.

2.0 Election of Vice President

Nancy Beecham, RN-BC was elected Vice-President of the Board for 2010. 3/2/0

3.0 Review and Approve Minutes:

➤ July 14, 2010, Board Meeting

MSC: Harrison/Corless that the Board approve minutes from July 14, 2010. 5/0/0

4.0 Report on Board Members' Activities

No activities were reported.

5.0 Board and Department Activities

5.1 Interim Executive Officer Report

Louise Bailey presented this report

Board Member Resignation

On September 15, 2010, Ann Boynton, President resigned her position on the Board due to her recent appointment as the Deputy Executive Officer, Benefits Administration, for the California Public Employee's Retirement System. Ms. Boynton served as a public member on the Board since July 13, 2009. The members of the Board and staff extend a sincere thank you to her for the work that she did to protect the healthcare of consumers in California.

Board's Budget Update

Budget Change Proposal (BCP) – The Board submitted three (3) Budget Change Proposals for FY 2011/2012. The Public Information BCP requested 6 positions along with \$395,000 in funding for FY 2011/12 and \$349,000 ongoing for the mailroom, cashiering, and phone center. The Board requested an augmentation of \$78,000 for the evidence witness fees and \$80,000 for the court reporters line items. The final BCP requested an augmentation of \$466,000 to reorganize the Administrative and Licensing Units. However, the Board has been notified by the State and Consumer Services Agency that none of these BCPs will move to the Department of Finance due to California's economic condition.

Department of Consumer Affairs (DCA) Updates

DCA Appointments – Jennifer Willis has been named as the new Personnel Officer. Ms. Willis has served as the Personnel Officer at the Department of Forestry and at the Board of Equalization. She has over 29 years of state service including 2 years at State Personal Board. Most recently Jennifer was in the private sector as a Financial Representative. She is a graduate of CSU-Sacramento and she brings outstanding communication skills, leadership and experience to this critical position. Welcome to DCA.

Cindy Kanemoto has been named as the new Chief of SOLID Training Solutions and has agreed to lead the DCA's new "Licensing for Job Creation Unit". The goal is to expedite and improve the efficiency of DCA's professional licensing and examination application processes. Ms. Kanemoto is responsible for the coordination of the new Enforcement Academy and Management Academy and her leadership skills to successfully meet LJC's critical economic mission.

Board Member Orientation – In accordance with Business and Professions Code Section 453, Board Members are required to attend DCA's Board Member Orientation within one year of their appointment. The next Board Member Orientation is set for Wednesday, December 1, 2010, at DCA Headquarters in Sacramento from 9:00 am to 4:30 pm. Please notify the Administration Unit if you would like to attend.

BreEZe Project – The Department has requested that boards and bureaus identify staff to serve as Subject Matter Experts (SME's) for several areas of the BreEZe project. The BRN has identified the following staff to serve as SMEs from the following Units: Lorraine Clark, Kristie Powell, Anita Rodriguez Enforcement/Probation; Christina Rice Renewals and Cashiering; Renee McClellan and Marc Cardenas, ATS/CAS systems; Nancy VanVooren and Moises Yanez, Licensing. In addition to the SMEs expertise in their respective Units they will assist in developing guidelines for data conversion, electronic data retention and forms consolidation.

2009-2010 Annual School Survey

The Annual School Survey, which is completed on-line by all pre-licensure nursing programs and includes questions on enrollments, graduations, program and faculty data, etc., will be available beginning October 1. Post-licensure program data is also collected from some of the programs. The survey is currently being beta tested by a few programs before an e-mail will be sent to all schools. The deadline date for schools to provide data is November 15. This survey is conducted by our contractor, The Center for Health Professions at UCSF. They will compile the data and provide the Board with a statewide annual report and regional reports which will be provided at future Board Meetings.

2010 RN Survey Update

Data collection was closed on August 24, 2010 for the 2010 RN survey. As of that date, a total of 6,441 active RN surveys and 563 inactive and delinquent RN surveys had been received, for a 66% and 62% response rate, respectively. This response rate is better than 2008, when the response rate was 60% and 56%, respectively. The surveys were mailed out on April 22, 2010 to a sample of 10,000 RNs with active licenses who reside in California and other states and another 1,000 were mailed to RNs with recently inactive or lapsed licenses who reside in California.

The Board contracts with the Center for the Health Professions at the University of California, San Francisco (UCSF) to conduct this biennial survey of active and inactive Registered Nurses in California. The purpose of the surveys is to collect and evaluate nursing workforce data to understand the demographics, education, employment patterns, nurse perceptions of the work environment, reasons for discontinuing work in nursing and plans for future employment. UCSF is now conducting data review and cleanup. They will analyze the data and produce a report detailing the information found in this survey as well as previous surveys so trends can be reviewed. This is the seventh in the series of legislatively mandated California RN workforce surveys. The previous surveys were conducted in 1990, 1993, 1997, 2004, 2006 and 2008.

Drew University Update

On August 15, 2010, the Board learned that the inaugural nursing class of the Mervyn M. Dymally School of Nursing at Charles Drew University of Medicine and Science is in danger of losing the new \$43 million state of the art facility. The academic area has all the essentials of a hospital that includes a nurses station equipped with screens monitoring mannequin patients that can be programmed to produce numerous health related scenarios and issues. It was reported in early September the University will begin using a reserve fund to make the loan payments on the new building that is to be home to 120 nursing students. Losing the building could put the entire university at risk as the collateral for the loan is the university's remaining asset.

The university based in Los Angeles, south of Watts, educates health professionals and was associated with Martin Luther King, Jr./Drew Medical Center, which closed its emergency rooms and inpatient units in 2007. The hospital struggles to put Drew University on tenuous ground; however, taking drastic measures with layoffs, eliminating contract workers and salary cuts, put the University back on stable financial ground.

California Hospital Association Request

Doral Harms, Senior Vice President Clinical Services for the California Hospital Association has been assisting the hospitals by providing them a link to the Board's Website where all Disciplinary Actions taken against RNs licenses are listed. This will assist the hospitals in monitoring any actions taken by the Board to ensure that their licensed professionals have current, active and unencumbered licensees in their facilities.

Phony Nursing Program

An investigation by the Board has led to the closure of a phony nursing school in Los Angeles. The RN Learning Center charged students \$20,000 for classes that the school said would make them eligible to take the national RN examination, known as the NCLEX-RN. The BRN investigation that began in 2007 resulted in the Attorney General's Office negotiating a settlement with the owner Junelou Chalico Enterina to pay \$500,000 in restitution and never open a nursing school again. Mr. Enterina also had a Continuing Education Provider number CEP 14565 that is in the process of being withdrawn at this time due to the outcome from the settlement.

Public Record Request

The Board continues to comply with public record requests and responds within the required timeframes that are set in Government Code Section 6250. For the period of June 25, 2010 through September 2, 2010, the Board has received and processed 56 public record requests.

Board Member Correspondence

For the period of June 29, 2010 through September 8, 2010, the Board received three letters addressed to Board Member(s). Two letters were related to a probation matter and the third was related to an educational program.

BRN Staff Appreciation Day

On July 28th, the BRN staff enjoyed lunch and refreshments, provided by the BRN managers, to bring staff together to show our appreciation and to thank them for all of their hard work. Later in the day we celebrated Anita Rodriguez on her 25 years of State Service with a mid-afternoon reception in her honor.

Personnel

The following personnel changes have transpired since the last Board Meeting:

Separations	Classification	Board Program
Kelly Inzunza	Office Technician	Call Center

5.2 DCA Directors Report

Kimberly Kirchmeyer presented the DCA Directors Report on behalf of Brian Stiger, Director

Hiring Freeze

On August 31st the Department received a Governor's Directive to cease the hiring of employees. The Department is complying with that Directive. The directive did state that there may be limited circumstances where exceptions to this directive may be necessary for the preservation and protection of human life and safety, emergency and disaster response, the provision of 24-hour medical care, and mission critical functions. The exception process has to be approved by the State and Consumer Services Agency as well as the Governor through the Cabinet Office.

Enforcement

The Department continues to request that the Board move forward with the implementation of the SB 1441 Uniform Standards by making regulations or policy changes as necessary. DCA encouraged the Board to look at the timeframes for the different steps within their Enforcement processes. Additionally, DCA gave its support for the Board to become a participating member of the National Council of State Boards of Nursing – Nursys Database.

The BreEZe project is moving forward and is on target for completion. A Forms Revision Workgroup and Data Conversion Workgroup has been developed to assist in the process

Licensing for Job Creation Unit Update

The Department is continuing to gather licensing statistics from all Boards and Bureaus and has provided the first set to the Agency Secretary and Governor's Office. These statistics will continue to be requested each month. DCA will be meeting with the Boards and Bureaus to review these statistics and look at process improvements for the licensing process, including changes to any laws or regulations, and establishing performance measurements.

Maximus Breach of Contract

On September 8, 2010, the Department of Consumer Affairs was notified that Maximus had determined that their subcontractor (FirstLab) had not been using the appropriate thresholds for drug testing. When Maximus found this error, they corrected the thresholds and tested all participants. Additionally, all participants will be having a hair follicle test performed.

The Department is performing a comprehensive inquiry into the events that lead to this breach. The Department is asking for a corrective plan and preventative plan from Maximus. The Department is also working with the Boards to establish more contract oversight and has asked the Boards to do a case review of the affected participants. This may have also affected probationers if the Board used First Lag to conduct the drug testing of probationers.

The Department is requesting the Boards look at any contract they have and ensure the appropriate thresholds are being used. Also, if the Board does not have a contract for drug testing, the Department is requesting that you immediately move forward to enter into such a contract for drug testing.

6.0 Report of the Administrative Committee

Jeannine Graves, RN, Chairperson

6.1 Proposed Amendment, Title 16, California Code of Regulations, Article 1, Section 1417, Fees

G. Nibbs presented this report

The Board's regulatory proposal to increase specified fees was sent to the State and Consumer Services Agency on August 17, 2010, and approved on August 24, 2010. On August 26, 2010, this package was sent to the Department of Finance for review. If approved the next step in the process is the review and approval by Office of Administrative Law. The Board is monitoring the progress of this regulatory package as the one-year period concludes on September 24, 2010.

6.2 Sunset Report

J. Campbell-Warnock presented this report

In March 2010, the Board was notified that the Senate Committee on Business, Professions and Economic Development (the Committee) will resume the Sunset Review process and hold Sunset Review hearings in the fall of 2010. Our Board is one of nine Boards under Sunset Review this year. The report includes specific information requested by the Committee on Board programs, funding, activities, current responses to issues identified at the prior sunset review and current issues and recommendations presented by the Board. Most data reported is from the past four fiscal years and major developments or changes in the Board since the last Sunset Review in 2002.

The report is due to the Committee by October 1, 2010. Committee staff will analyze the Sunset Review information provided by the Board and prepare a background paper with issues and possible preliminary recommendations for the Board and interested parties to consider during public hearings to be held in November or December. The Department of Consumer Affairs will then have an opportunity to review and present their recommendations to the Committee sometime in March 2011. The Committee will then vote upon recommendations.

MSC: Corless/Beecham that the Board accept the Sunset Report. 5/0/0

6.3 Board and Committee Meeting Dates for 2011

L. Bailey presented this report

The following dates were considered for the 2011 calendar year.

Committee/Board Meetings:

February	1-3, 2011
April	12-14, 2011
June	21-23, 2011
September	13-15, 2011
November	15-17, 2011

7.0 Report of the Legislative Committee

Dian Harrison, MSW, Chairperson

7.1 Positions on Bills of Interest to the Board and any other Bills of Interest to the Board.

L. Bailey presented this report

AB 867 Nava: California State University: Doctor of Nursing degree pilot program
Support – Enrollment

AB 1937 Fletcher: Pupil Health: immunizations
Support – Chaptered 203

- AB 2302 Fong: Postsecondary Education: student transfer
Watch – Enrollment
- AB 2344 Nielson: Nursing: approved schools
Support – Chaptered 208
- AB 2385 Perez: Pilot Program for Accelerated Nursing and Allied Health Care
Profession Education at the California Community Colleges
Watch – Enrollment
- AB 2500 Hagman: Professions and Vocations: licenses: military services
Support – Enrollment
- AB 2699 Bass: Healing Arts: licensure exemption
Oppose unless amended – Enrollment

The following people provided a comment:

Kelly Green, California Nurses Association
Trisha Hunter, American Nurses Association California

- AB 2783 Committee on Veterans Affairs: Professions and Vocations: military
personnel
Watch – Chaptered 214
- SB 294 Negrete McLeod: Department of Consumer Affairs: regulatory boards
Oppose – Enrollment
- SB 1119 Wright: Health Care Staffing
Oppose unless amended – Enrollment
- SB 1172 Negrete McLeod: Regulatory Boards: diversion programs
Watch – Enrollment
- SB 1440 Padilla: California Community Colleges: student transfers
Support - Enrollment

8.0 Report of the Diversion/ Discipline Committee

Richard Rice, Chairperson

8.1 Nursys Discipline Data Comparison (Scrub) Update

S. Berumen presented this report:

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records.

Currently, 1,805 records have been reviewed on the active license list. Determination was made whether the cases warranted a request for the other state's discipline documents. This review resulted in 1,024 requests for out-of-state documents. The documents will be reviewed and a determination made as to the appropriate action needed.

Review of the inactive license spreadsheet is in progress and will continue until complete. Holds have been placed on 1,915 inactive records to alert staff when a nurse on the list attempts to activate their license. This alert will allow staff to immediately review the records and determine if out-of-state discipline documents are needed.

The status of the documents reviewed:

Referred to the Attorney General	138
Pleadings Received	78
Notices of Defense Received	20
Referred to Cite and Fine	12
Closed Without Action (Action taken by CA (prior to 2000) but not reported to Nursys or information approved at time of licensure)	108
Settlement or Decision Pending	25

The National Council of State Boards of Nursing (NCSBN) announced at its Annual Meeting on or about August 12, 2010, a new process in development for non-licensure participating boards to participate in sharing discipline information.

Trisha Hunter, American Nurses Association California provided a comment.

MSC: Harrison/Graves that the Board participate in NCSBN's new process for sharing discipline information. 5/0/0

8.2 Internet Disclosure Policy

S. Berumen presented this report

The Board of Registered Nursing (BRN) began posting discipline information on its web site in 2006. This was done in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The BRN provides this information to better inform and protect California's health care consumers.

Business and Professions Code Section 27 requires a number of boards and bureaus under the direction of the Department of Consumer Affairs, to post information on their web sites. The BRN is not included in this code section.

BRN provides information on the internet to indicate any disciplinary actions and their status through a series of codes from our legacy computer system. The discipline documents are added to support and explain actions taken.

In the past, when the public requested discipline documents BRN staff had to locate and provide them. If the document was available electronically it did not take much time to print and mail out or send via e-mail. However, if the documents were not readily available or located in our office then they were requested from the State Record Center, a state agency who provides offsite storage facilities. Staff would have to wait for the file to be delivered, locate the documents in the file, and make a copy to be sent out and one to be kept in the office. This could take anywhere from three days to two weeks time to provide the information. As the BRN prepared to move to our current location in 2005 and to reduce the information transported from one building to another due to a reduction in office space, staff began scanning the discipline documents which were previously kept in binders in file storage space.

As of September 1, 2010, there are approximately 4,942 discipline documents listed on our website. These documents include denial letters, statements of issue, accusations, petitions to revoke probation, interim suspension orders, PC 23 criminal court license suspension orders, and final decisions.

Board members have expressed concern and believe it is vitally important the public is aware of nurses who may pose a danger to the public.

In the last year, BRN staff has received requests to remove discipline documents from our website for a variety of reasons such as: it has been many years since the action was taken, the conviction included in the disciplinary action has been dismissed, expunged, or sealed, it hampers a licensee's ability to find employment, or the licensee is harassed by co-workers.

The BRN has been unable to provide all discipline documents on the website due to limited staff resources and ability to access records quickly. Discipline documents continue to be requested on a routine basis by members of the public if they are not available on the website. When staff requests a file to obtain the discipline documents they are added to the website at the same time they are sent out to the public person.

DCA and BRN past practice is to retain the documents on the website indefinitely but at least until the BRN no longer has jurisdiction over a licensee.

MSC: Graves/Corless that the Internet Disclosure Policy be deferred to the Diversion/Discipline Committee for determination of disclosure parameters. 5/0/0

8.3 Enforcement Program Update and Statistics

S. Berumen presented this report

Staff

As we still do not have a signed budget and we are now operating under a hiring freeze, we are poised to start the hiring process; we cannot fill any new positions until we have authority to do so. There is a major concern that our four existing limited term staff (all highly valued

employees) will either be forced to leave state service or return to their previous positions since two terms expire 12/31/10 and two expire 2/28/11. If we lose the staff members we will not be able to backfill their positions, so the work on their desks will not get done. These circumstances jeopardize our stated goal of case turnaround times within an average of 12-18 months. Due to the increase in complaints and lack of investigative personnel, our timeline for formal investigations has not improved at all.

The approved BCP authorized 24 investigators and four (4) nurses, but failed to provide any support staff. We recently learned that we are only allowed to reclassify eight (8) of the 24 investigator positions, rather than the 13 we planned for. Consequently, we had to eliminate several positions, including the in-house expert witnesses. This will directly increase our investigation timeline by sending all cases to outside experts.

We planned to hire top down to provide lateral movement and promotional opportunities for existing staff. The management positions were posted and we received a large number of applications; however, we are still waiting for DPA approval of the Staff Services Manager III before we can begin conducting interviews and making tentative offers pending a signed budget.

We are in the process of scheduling and conducting interviews for two (2) Senior Special Investigators and 12 Special Investigator I positions. Each candidate must have a modified background check completed by DOI, estimated to take 4-6 weeks to complete. We would like to bring on as many new investigators as possible so they can attend a training course scheduled the first week of November.

We are currently accepting applications for the Lead Nursing Education Consultant (NEC) and plan to begin interviews shortly. This will be a Master's level NEC. We are still trying to create two pay ranges, range A for Bachelor's prepared nurses, and range B for Master's. HR is also working on increasing the salary range for this nursing classification.

Managers and staff completed the planning sessions for the new Complaint Intake Unit and the Investigations Unit. Duties were defined and processes outlined at a high level. Detailed written procedures will follow as time permits. Duty statements were completed and submitted to HR for approval.

We have cross trained staff on serving accusations, processing final decisions, and slightly changed the alpha case assignments for a more even distribution across the Case Management Analysts.

Amanda Velasquez, one of our limited term Office Technicians took a permanent position at Alcoholic Beverage Control since her position expires in December 2010. The Licensing unit has been gracious enough to provide part-time help since we are unable to backfill her position.

Stacie Berumen has been appointed to the National Council of State Boards of Nursing (NCSBN) Discipline Resources Committee. She is attending the first meeting which is scheduled for September 21 – 22, 2010 in Chicago.

Program

During a writ of mandate hearing in Los Angeles regarding a default decision, a Superior Court judge indicated that the AG's office has been remiss by not including an evidence packet to support the revocation of a license through a default decision. As a result, the AG's office notified us that, as of the end of July, we were no longer to prepare our own default decisions. They were not clear what needed to be in the evidence packet so did not want our staff preparing potentially legal documents and working outside of position classifications. We agreed to a 30-day trial period to determine what was included in an evidence packet and how the switch back to the AG's office impacted our timelines. The 30-day trial period ended August 27 and our Deputy Attorney General (DAG) liaisons were informed of the results. In essence, our staff is spending on average 2-3 hours on each default (editing documents/requesting corrections be made by the DAGs in almost every case) when it used to take her 15 minutes to complete the process. Other than a cover letter, the evidence packet includes copies of documents we have in the case file. Since only 5-10% of our defaults make it to hearing, we do not think the evidence packet needs to be prepared unless it is contested and goes to hearing. BRN staff averages preparing 7-8 default decisions each month for board vote. However, due to delays at the AG's office no default decisions were referred for board vote in August. We await a response and are negotiating this process with the AG's office.

Beginning in July, all applicant files are reviewed by management to approve recommendations for licensure or denial. Fingerprint inconsistencies were identified that seem to stem from DOJ reports, such as, not all convictions disclosed by applicants appear on rap sheets and information from multiple persons appears together on one rap sheet. The problems are not related to the age of the conviction or the age of the subject at the time of the event. We continue to use the clearances and rely on the applicant's integrity to be truthful about past indiscretions when they fill out the application. DOJ is looking into possible causes.

Many nurses answered 'Yes' to completing the fingerprint requirement when their license was renewed but we do not have proof of submission or any results from the DOJ or FBI. Due to multiple outdated legacy systems staff has to build and create reports to research this issue to find out how many and which licensees are missing fingerprint results. Letters will go out requiring they submit proof of fingerprint submission to the DOJ along with information explaining the repercussions. If a licensee provides proof dated after the letter was sent, a citation and fine will be issued for perjuring themselves on the renewal application. If they did not comply or fail to respond to the letter, a hold will be placed on the license showing an incomplete license renewal and cannot practice as a registered nurse. Failure to comply will result in a referral to the AG's office for possible disciplinary action.

We are reducing the number of cases being closed with merit (not rising to the level of formal discipline). When regulations permit, we refer cases to the citation and fine desk for issuance. We will provide regulation change proposals to establish lower level actions

such as education letters and warning letters. Additional regulation changes will be recommended for the citation and fine program to add new offense categories.

Retroactive fingerprint criminal histories appear to be going down; however, our subsequent arrests have increased. The complaint intake staff work diligently but this increase has caused a backlog of these types of complaints.

On August 25, Licensing staff began checking the registered sex offenders list for all exam and endorsement applicants through the NCSBN website.

The CAS clean up project was completed for complaints investigated by BRN staff as scheduled; therefore, our performance measurement reports for these areas are accurate. Another area has been identified for cleanup. There are discrepancies with our cases referred to DOI. Staff will begin working on this process. It is hoped this can be completed by the time our enforcement data is reported on the DCA website in mid-October.

On July 1, Enforcement staff began to track time spent on complaints in the investigative phase for performance measurement and eventual cost recovery. Due to the number of complaints in Enforcement, we are only required to track time on 10% of the workload.

We planned to offer an Expert Witness workshop in Southern California sometime in October; however, we are unable to travel due to budget constraints. We look to provide this training sometime next Spring if funding is available.

Staff continues to prepare for the Enforcement audit scheduled to begin in October 2010. We are gathering all written procedures which are sent to the auditors, as requested. The auditors were informed that our processes have changed quite a bit and we have not had time to rewrite them due to lack of staff and we continue to change and refine them as we implement new processes.

BRN Investigations

BRN investigators have completed 42 investigation reports. We no longer have Southern California special investigators (RA) working for the board as of June 30, 2010. During the last week in July and first week in August, BRN Nursing Education Consultants assisted enforcement in developing investigative case plans for urgent Southern California cases. They completed 60 case plans. Of these, 32 will be sent back to DOI to conduct and document interviews.

There is still a major concern that the backlog of BRN investigations continues to grow. To accomplish the department's goal of completing investigations in 6 months or less, we plan to gather and analyze investigation data from BRN and DOI to determine whether a BCP should be pursued next year to add more non-sworn investigators to meet this goal.

In DOI's haste to meet their stated goals, around April, DOI returned incomplete investigations. This required staff to request numerous supplemental investigations and

cases rejected by the AG's office due to insufficient evidence. BRN management met with the DOI Chief and the DCA Deputy Chief of Enforcement and Compliance to express our concerns and, as a result, DOI will conduct routine audits and use their DAG liaison to ensure cases are complete before being sent to the BRN.

Case Management

Still an on-going problem: Based on the timeline established by the AG's office, hearings are to be requested within 2-4 weeks of receipt of a Notice of Defense (NOD); however, there are a number of cases in which this has not been done. Even with the CMAs following up on the cases and reminding the Deputy Attorney General (DAG) to request a hearing date, many of the DAG's wait to see if the case will settle first. If the case does not settle and a hearing date is then requested, several months have elapsed and the hearing date gets pushed out accordingly – further impacting the timeline of the case.

The length of time until a hearing date can be scheduled with an ALJ by OAH has also dramatically increased due to the higher workload at OAH. At the beginning of fiscal year (2009/10) hearing dates were being scheduled between 90-120 days statewide. Hearing dates are now being scheduled between 120-240 days from the initial request.

Statistics

There are 401 pending DOI investigations.

There are 683 pending BRN investigations.

From October 1, 2009 to August 31, 2010, enforcement has served a total of 569 accusations and prepared 123 default decisions.

The old monthly enforcement report was provided and has additional breakdowns of information. The new report required to be submitted to the Deputy Director of Enforcement and Compliance is still undergoing clean up and will be provided at a later meeting when statistics are accurate.

Beverly DeAngelo, California Center for Public Law provided a comment.

8.4 Probation Program Update and Statistics

S. Berumen presented this report

Staff

The Probation Program currently has one vacancy for a probation monitor and has initiated recruitment efforts. A candidate has been identified who we hope to bring on board when the budget is signed.

Program

The Probation Program staff will participate in designing a multi day course directed towards probation monitors. This course will be comprehensive training to provide actual tools and knowledge for probation monitors state wide. Additionally, the probation staff will provide training at the second probation academy in December.

The Probation Program continues to work on the Nursys discipline data comparison project and will continue to do so until all records have been reconciled against California's records. Updates will be provided at each DDC meeting.

The Probation Program will begin reviewing the Recommended Guidelines for Disciplinary Orders and Conditions of Probation. They were last revised in 2002 and are long overdue for cleanup and to incorporate recent legislative and regulatory changes.

The Probation Program lost 192 hours of staff time from June 24, 2010 to September 1, 2010 due to state mandated furloughs.

8.5 Diversion Program Update and Statistics

C. Stanford presented this report

As result of the new contract with Maximus, effective January 1, 2010, several changes took place in the Diversion Program. One change involves shifting DEC member travel payment from the contractor to the Board of Registered Nursing (BRN) staff. As a result of this transition and the delay in the budget, members who donate much of their time to the Diversion Program, must now pay for their own travel expenses without reimbursement. The committee members continue to be gracious through this difficult time; however, it puts a financial strain on all members and staff does what they can to assure them the travel claims have been processed and will be paid when the budget is finally approved. Staff will work with the accounting office to make sure they are reimbursed as soon as possible.

The Diversion Program Manager attended the first DEC meeting of the newly created fourteenth DEC. The committee members chosen for that DEC all have years of experience running DEC meetings. Their expertise and ability to work well together while evaluating the participants was evident. This is a solid committee and Diversion staff will continue to recruit for the public and physician committee member.

The BRN has always believed in transparency between the program and the contractor. For several years the BRN requested an audit of the Diversion Program's contractor. Maximus is the vendor chosen through the contract bidding process to administer the key elements of the program for the Board. As a result of SB 1441, an audit was mandated pursuant to Section 156.1 of the Business and Professions Code and Section 8546.7 of the Government Code. The audit required DCA to "conduct a thorough audit of the effectiveness, efficiency, and overall performance of the vendor," Maximus, and to make recommendations regarding the program and determine if individuals participating in the programs are appropriately monitored, and the public is protected.

The audit was completed and provided to the BRN on July 15, 2010. It was performed in accordance with the Standards for the Professional Practice of Internal Audits. The audit was to examine participant records and information for the period of July 1, 2007, through June 30, 2009. However, the actual period extended several years before and after the test cases due to the nature of this multiple year program. The audit confirmed that the

Diversion Program is successful, revealed no extensive systematic problems or program noncompliance, and confirmed that Maximus is complying with the mandates of the contract and substantiates they are fulfilling contract requirements. It determined that individuals in the program were appropriately monitored and the necessary policies and procedures were being followed for public protection.

Maximus adequately meets the requirements outlined in SB1441. The eight (8) minor findings and one (1) major finding outlined in the Audit were appropriately addressed by Maximus. The audit determined that key elements of the requirements were incorporated into the program and contract prior to the enactment of SB1441. The new contract which became effective January 1, 2010, has already resulted in several process and procedure improvements that further strengthen the program.

For your review I have attached a brief synopsis of the findings. A copy of the entire audit is available for your review upon request.

Contractor Update

Maximus developed a satisfaction survey tool available through the internet in June for the participating Boards, participants, and other stakeholders to have convenient access in order to provide information and feedback regarding the program. They will subsequently provide the BRN with periodic updates regarding the outcomes. A sample copy of the survey is available upon request.

Virginia Matthews, Maximus Program Director, provided a brief report and overview regarding any changes or trends.

Diversion Evaluation Committees (DEC)

There are currently ten vacancies as follows: four Registered Nurses, five Physicians, and one Public member. Recruitment efforts continue.

Statistics

Attached is the Monthly Statistical Summary Report for June and July, 2010. As of July 31, 2010, there were 1,491 successful completions.

8.5.1 Committee Member Term Resignations

C. Stanford presented this report

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Diversion Evaluation Committees. Each Committee for the Diversion Program is composed of three registered nurses, a physician and a public member with expertise in chemical dependency and/or mental health.

The following Diversion Evaluation Committee members have resigned for personal reasons. Their efforts will be recognized and letters of appreciation mailed out.

RESIGNATIONS

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Denise Hughes	Nurse	Bay Area	2
Forrest Long	Nurse	Oakland	13
Robert Robinson	Public	San Diego	10

8.5 Diversion Evaluation Committee Members

C. Stanford presented this report

In accordance with B & P Code Section 2770.2, the Board of Registered Nursing is required to appoint persons to serve on Diversion Evaluation Committees. Each committee is composed of three registered nurses, a physician, and a public member with expertise in chemical dependency and/or mental health.

TRANSFER

The following Diversion Evaluation Committee members are requesting transfers.

TRANSFERS		From	To
<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>DEC</u>
Sara Ohringer	Nurse	3 Los Angeles	8 Burbank
Grace Murphy	Nurse	14 Santa Ana	3 Los Angeles
Dianne Souza	Public Member	9 Ontario	10 San Diego

MSC: Graves/Corless that the Board approve Diversion Evaluation Committee Member transfers.

5/0/0

9.0 Report of the Education/Licensing Committee

Catherine Todero, PhD, RN, Chairperson

9.1 Ratify Minor Curriculum Revision

M. Minato presented this report

- California State University Channel Islands Baccalaureate Degree Nursing Program
- Evergreen Valley College Associate Degree Nursing Program
- Hartnell College Associate Degree Nursing Program
- Pasadena City College Associate Degree Nursing Program
- Reedley College at Madera Community College Center Associate Degree Nursing Program
- Santa Barbara City College Associate Degree Nursing Program
- Yuba College Associate Degree Nursing Program

Progress Report:

- California State University Chico Baccalaureate Degree Nursing Program, LVN to BSN Option
- University of California, Los Angeles Baccalaureate Degree Nursing Program
- Western Governors University Baccalaureate Degree Nursing Program
- Everest College Associate Degree Nursing Program
- Mt. San Jacinto College Associate Degree Nursing Program
- Pasadena City College Associate Degree Nursing Program
- West Hills College, Lemoore, Associate Degree Nursing Program

MSC: Beecham/Niemela that the Board ratify Minor Curriculum Revisions. 5/0/0

9.2 Major Curriculum Revision

M. Minato presented this report

- Point Loma Nazarene University Baccalaureate Degree Nursing Program

MSC: Beecham/Graves that the Board ratify Major Curriculum Revisions. 5/0/0

9.3 Proposed Amendment, Title 16, California Code of Regulations, Article 3, Schools of Nursing

G. Nibbs presented this report

The Board's regulatory proposal amending Article 3, Schools of Nursing, was submitted to the Office of Administrative Law (OAL) on August 9, 2010. OAL has 30 business days to review the proposal and notify the BRN of any issues or concerns.

9.4 Feasibility Study for Prelicensure Registered Nursing Program

M. Minato presented this report

- Career Networks Institute Associate Degree Nursing Program

MSC: Beecham/Niemela that the Board accept the Feasibility Study from Career Networks Institute Associate Degree Nursing Program. 5/0/0

- Heald College Baccalaureate Degree Nursing Program, Fresno Campus

The following people provided a comment
 Gloria Fitzgerald, RN
 Genevieve Clavreaul, RN

MSC: Niemela/Harrison that the Board accept the Feasibility Study from Heald College Baccalaureate Degree Nursing Program, Fresno Campus. 5/0/0

- Institute of Medical Education Associate Degree Nursing Program, San Jose Campus

MSC: Beecham/Harrison that the Board accept the Feasibility Study from Institute of Medical Education Associate Degree Nursing Program, San Jose Campus. 5/0/0

- ITT Technical Institute Associate Degree Nursing Program, Rancho Cordova Campus

MSC: Niemela/Beecham that the Board accept the Feasibility Study from ITT Technical Institute Associate Degree Nursing Program, Rancho Cordova Campus. 5/0/0

9.5 Licensing Program Overview and Statistics

B. Pierce presented this report

Program Update

The Department of Consumer Affairs (DCA) in conjunction with the Board of Registered Nursing (Board) participated in the Governor's Job Creation Through the Elimination of Licensing Backlog Initiative. This project began during the mandated 3 furlough Fridays a month and the goal was to reduce and license all eligible applicants whose applications had been pending for 30 days or more in all healing arts boards licensing programs by 50 % on or before June 30, 2010. This initiative enabled the licensee to seek employment or open a business that could provide jobs throughout the State. This project began January 27, 2010 and ended on June 30, 2010.

The Licensing Unit used this opportunity to review procedures to determine if there was a more efficient way to complete a file evaluation; and at the same time identify a better way to capture the statistics required by DCA to show the reduction in backlog on licensing files. Additionally, this initiative provided an opportunity for the units that supported the licensing function such as the mailroom and cashiering to also work on furlough Fridays and Saturdays. This ensured that Licensing had all supporting documents such as transcripts and with the large influx of applications from Spring graduates every application was processed through Cashiering in a timely manner.

The following is an overview of the applications that were pending for more than 30 days:

- 1) Evaluation completed; applicant is eligible to register with the testing services and take the national examination NCLEX-RN. The applicant has a two year eligibility period to register to take the NCLEX-RN and receive their Authorization to Test (ATT). The applicant then has 12 months in which to take the exam, which is the validity of the ATT. The process can take up to three years.
- 2) Additional documentation required, i.e., curriculum, transcripts, etc. needed to complete the file; (California Code of Regulation (CCR) section 1410.4 and the Board's Record Retention Schedule provides an applicant one year from the date of

the deficiency letter to provide documentation on an incomplete application file and the file can be destroyed if the information is not received within the requisite time period.)

- 3) Applicants who have taken and passed the NCLEX-RN, but are unable to provide a U.S. social security number to complete the file to become licensed; file is abandoned and destroyed after 3 years; however, the passing score remains valid indefinitely.
- 4) Applications with no activity are considered abandoned based on the California Code of Regulations section 1410.4 and the Board's Record Retention Schedule and are destroyed.

Licensing, Mailroom and Cashiering staff worked a total of 12 days - six furlough Fridays and six Saturdays. During this time, the Board issued 10,869 RN licenses and reviewed and destroyed 9,495 abandoned application files. Due to the success of this Initiative, DCA is continuing these efforts and has created the Licensing for Job Creation Unit and the Board is providing statistics on a monthly basis to the Department. The Board issued 17,007 RN licenses from January 27 through August 31, 2010. The Licensing Unit will continue destruction of abandoned files and is happy to report that it does not have a backlog at this time. Additionally, Licensing is gearing up for the increase in the number of applications anticipated from the Fall graduates from the 148 California pre-licensure nursing programs.

Issues

- **Accelerated programs from other countries**

These programs enable a person with a previous degree, not necessarily in the medical field, to complete a minimum amount of nursing course work and receive their diploma as a registered nurse.

- **Un-approved programs**

These are "programs" where didactic coursework is completed on line and the clinical practice is completed in another country.

- **International Education Issues**

Countries not forthcoming with requested information regarding their nursing programs; for example, what governmental agency approves nursing programs and what level of nursing is taught in the programs. Additionally, the evolution of international nursing schools and programs and the differences that are found from one graduation period to another.

Statistics

The statistics for the last two fiscal years are attached and it is noted that there has been a decrease in the number of applications for exam, endorsements and repeaters for the last two fiscal years due to the economic downturn and the Board is no longer accepting applications that do not include a U. S. Social Security Number.

9.6 NCLEX-RN Pass Rates Update

K. Daughter presented this report

The Board of Registered Nursing receives quarterly reports from the National Council of State Boards of Nursing (NCSBN) about the NCLEX-RN test results by quarter and with an annual perspective. The following tables show this information for 12 months and by each quarter.

NCLEX RESULTS – FIRST TIME CANDIDATES

July 1, 2009 – June 30, 2010**

JURISDICTION	TOTAL TAKING TEST	PERCENT PASSED %
California	11,141	88.83
United States and Territories	143,702	88.80

CALIFORNIA NCLEX RESULTS – FIRST TIME CANDIDATES

By Quarters and July 1, 2009-June 30, 2010*/**

7/1/09- 9/30/09		10/01/09- 12/31/10		1/01/10 3/31/10		4/01/10 6/30/10**		7/1/09 6/30/10	
# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass
4,198	88.40	988	84.72	3,840	89.79	2,115	89.88	11,141	88.83

*Includes (16), (8), (9) & (6) "re-entry" candidates.

** 2010 NCLEX-RN Test Plan and a higher passing standard (-0.16 logits) were implemented April 1, 2010.

The Nursing Education Consultants monitor the NCLEX results of their assigned programs. Current procedure provides that after each academic year (July 1 – June 30), if there is substandard performance (below 70% pass rate for first time candidates), the NEC requests the program director submit a report outlining the program's action plan to address this substandard performance. Should the substandard performance continue in the second academic year, an interim visit is scheduled and a written report is submitted to the Education/Licensing Committee. If there is no improvement in the next quarter, a full approval visit is scheduled within six months. A report is made to the Education /Licensing Committee following the full approval visit.

10.0 Report of the Nursing Practice Committee

Kathrine M. Ware, RN, MSN, ANP-C, Chairperson

10.1 BRN survey of California Nurse Practitioners, Certified Nurse-Midwives and Clinical Nurse Specialists

J. Wackerly presented this report

The BRN is working with Joanne Spetz and other research staff from the University of California San Francisco (UCSF), Center for the Health Professions to complete a survey of California Nurse Practitioners, Certified Nurse-Midwives and Clinical Nurse Specialists. The purpose of the survey is to learn information about demographics, education, employment, practice and standardized procedure use from these advanced practice nurses in California. There has not been much data collected from these advanced practice registered nurses nationally or in other states so there is interest nationally in the data that will be collected.

On June 30, 2010, the BRN had a brainstorming meeting/conference call with UCSF staff to discuss information to collect, ideas for the best way to collect the data and determine potential subject matter experts to further assist in survey development. UCSF then developed two sample surveys, one for Nurse Practitioners and Certified Nurse-Midwives and one for Clinical Nurse Specialists. There are some overlapping questions between the two surveys and some unique questions to target information from each specific advanced practice specialty area. On August 23, 2010, the BRN and UCSF staff had another meeting/conference call with subject matter experts representing the different advanced practice areas to refine the survey instruments. The subject matter experts were:

- Ann Mayo, Professor at Hahn School of Nursing and Health Science in San Diego representing Clinical Nurse Specialists
- Colleen Keenan, Interim Director of Nurse Practitioner Program at UCLA School of Nursing, representing Nurse Practitioners
- BJ Snell, Faculty Director at California State University, Fullerton, representing Certified Nurse-Midwives (she was not able to join the call but it is hoped she can provide feedback via e-mail).

The surveys are now being finalized and field tested, and are expected to be sent to a total sample of 5,000 to 6,000 California registered nurses certified in these advanced practice areas in mid-October. Data from the survey will be analyzed and a report completed by UCSF, discussing the findings, is expected by June 2011.

11.0 Public Comment for Items Not on the Agenda

12.0 Closed Session

Disciplinary Matters

The Board convened in **closed session** pursuant to Government Code Section 11126(c) (3) to deliberate on disciplinary matters including stipulations and proposed decisions

Meeting adjourned at 1:56 pm. J. Graves, Board President, called the closed session meeting to order at 2:00 pm. The closed session adjourned at 6:47 pm

Friday, September 24, 2010 – 9:00 am

J. Graves, Board President, called the meeting to order at 9:10 am and had the Board Members introduce themselves.

13.0 Public Comment for Items Not on the Agenda

No public comment made.

14.0 Disciplinary Matters

Reinstatements

Billy Goulette
Elissa J. La Barrie
Susan Neuhoff
Manuel Nunez
Ronald Taylor
Duke Trejos
Germaine Velasquez


Termination of Probation

Judy Wagayan

Decisions are pending until final orders are received from the Administrative Law Judge with the Office of Administrative Law.

Meeting adjourned at 1:45 pm. J. Graves, Board President, called the closed session meeting to order at 1:55 pm. The closed session adjourned at 2:30 pm


Louise Bailey, M.Ed., RN
Interim Executive Officer


Jeannine Graves, RN
Board President